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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/740,207	12/18/2003	Kleomenis Barlos	21526	2134
151	7590	08/21/2007	EXAMINER	
HOFFMANN-LA ROCHE INC. PATENT LAW DEPARTMENT 340 KINGSLAND STREET NUTLEY, NJ 07110			PRICE, ELVIS O	
		ART UNIT	PAPER NUMBER	
		1621		
		MAIL DATE		DELIVERY MODE
		08/21/2007		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/740,207	BARLOS ET AL.	
	Examiner	Art Unit	
	Elvis O. Price	1621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 04 May 2007 and 29 May 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 5-9 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. Claims 1, and 5-9 are pending in the application claims 2 and 4 having been canceled by applicants' amendment filed 5/29/07.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, and 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harre et al. {Reactive & functional Polymers 41 (1999), pp. 111-114}.

Applicants claim a process for preparing solid phase bonded 2-chlorotriyl chloride of formula I, in the presence of HCl and the organic solvent dioxane.

Harre et al. teach a process for preparing solid phase bonded 2-chlorotriyl chloride, comprising reacting solid phase bonded hydroxylated 2-chlorotriyl in the presence of a chlorination agent (thionyl chloride) and an organic solvent (methylene chloride) (see section 2.2 and 4.1). The difference between the presently claimed invention and what is taught by the Harre et al. reference is that Harre et al. do not teach HCl as a chlorinating agent, the use of other solvent (such as dioxane) besides methylene chloride and reaction times from 6 to 96 hours.

However, the use of any chlorination agent, solvent and reaction time would have been obvious, absent any unexpected results, to one having ordinary skill in the art.

One having ordinary skill in the art would have been motivated to experiment with different solvents, chlorinating agents and reaction times (depending on cost and availability of such reagents) so as to arrive at optimum results or at the very least arrive at other art recognizable alternative means of preparing the said solid phase bonded 2-chlorotriyl chloride of formula I. The presently claimed invention would have been therefore obvious to one having ordinary skill in the art.

Response to Arguments

Applicants' arguments filed 5/4/07 have been fully considered but they are not persuasive.

Applicants have attempted to overcome the obviousness rejection by amending the claims accordingly and presenting unexpected data (the combination of HCl as the chlorinating agent and dioxane as the organic solvent) included in their reply to the Office Action dated 11/3/06.

However, in order for such unexpected data to be considered compliant and proper, the said unexpected data must be presented in the form of a properly executed Declaration, filed under 37 CFR 1.132. Therefore, the present claims remain rejected for reasons of record given in this Office Action and the Office Action dated 5/4/07.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elvis O. Price whose telephone number is 571 272-0644. The examiner can normally be reached on 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne L. Eyler can be reached on 571 272-0871. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Elvis O. Price